REMARKS

Claims 12, 14, 15 and 17-22 are pending in the present application after cancellation of claims 13 and 16. Claims 12, 14, 21 and 22 have been amended.

Applicant notes with appreciation the acknowledgment of the claim for foreign priority and the indication that all certified copies of the priority documents have been received.

Applicant thanks the Examiner for considering the previously filed Information Disclosure Statement, PTO 1449 paper and cited references.

I. Rejection of Claims 13 to 16, and 21 Under 35 U.S.C. § 112, Second Paragraph

In response to the Examiner's rejection of claims 13-16 and 21 under 35 U.S.C. § 112, second paragraph, Applicant has incorporated the features of claims 13 and 16 (which claims are now canceled) into independent claim 12. In view of the amendments, Applicant respectfully requests that the § 112 rejection be withdrawn.

II. Rejection of Claim 12 to 22 Under 35 U.S.C. § 103(a)

Claims 12 to 22 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U. S. Patent No. 6,439,675 B1 ("Zechmann") in view of U. S. Patent No. 4,852,950 ("Murakami"). Applicant respectfully submits that the rejection should be withdrawn for at least the following reasons.

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103(a), the prior art teach or suggest each element of the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990). The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. M.P.E.P. §2142. To establish a *prima facie* case of obviousness, the Examiner must show, *inter alia*, that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, and that, when so modified or combined, the prior art teaches or suggests all of the claim limitations. M.P.E.P. §2143. In addition, as clearly indicated by the Supreme Court, it is "important to identify a reason that would have prompted a person of

ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed. See KSR Int'l Co. v. Teleflex, Inc., 127 S. Ct. 1727 (2007). To the extent that the Examiner may be relying on the doctrine of inherent disclosure for the obviousness rejection, the Examiner must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art." (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Amended claim 12 recites, in relevant parts, "in order to **prevent the vehicle from rolling away following a braked standstill**, . . . holding the first braking-force value for a specified limited first holding time . . . wherein the first **holding time** is a function of the gradient angle; monitoring an intention of the driver to drive off through an operation of an accelerator pedal; and **if the intention of the driver to drive off is detected during the first holding time**: **cutting short the first holding time, and from the point of cutting short the holding time, maintaining a second braking-force value independently of the driver for a specified extended second holding time**." Amended claim 22 recites substantially similar features as the above-recited features of claim 12.

In support of the rejection, the Examiner makes the following contentions: a) while Zechmann fails to teach "**holding the brake pressure** as a function of the gradient angle," Murakami "teaches this idea is known in the art and states that **a stepped reduction in wheel cylinder pressure** is dependent upon the slope of the road"; c) "note also col. 25, lines 42-50 [of Murakami] where pressure hold times TB are used as well"; d) it would have been "obvious to have modified Zechmann, with the teachings of Murakami, to expand the versatility of the system of Zechmann so that it may apply to braking vehicles on downhills, such as in parking applications"; and e) "[r]egarding claims 13-22 to have tailored the pressure holding times, as desired, dependent upon the grade of the road would have been an obvious engineering choice . . to minimize rocking or jerking vehicle sensations." As explained in detail below, the Examiner's contentions do not actually support the obviousness rejection.

First, to the extent the Examiner cites Murakami for teaching "**holding the brake pressure** as a function of the gradient angle" and that "**a stepped reduction in wheel cylinder pressure** is dependent upon the slope of the road," the actual teachings of Murakami have nothing to do with the claimed features in which "in order to **prevent the vehicle from rolling**

away following a braked standstill, . . . holding the first braking-force value for a specified limited first **holding time**," which is a function of the gradient angle. In contrast to the present claimed invention which deals with prevention of **vehicle roll-away** following **a braked standstill**, Murakami seeks to prevent "the **vehicle driver and passengers** [from being subjected to] an uncomfortable backward motion . . . referred to as 'rock-back motion' . . . due to sudden zeroing of **the deceleration rate**" by adjusting the pressure-decrease pattern (i.e., proportion of the pressure-decrease time TA' to the pressure-hold time TB' during braking cycle time To) depending on the slope of the road. (See, e.g., Murakami, col. 1, l. 28-26; col. 3, l. 52-65; and col. 24, l. 52 – col. 25, l. 42). Accordingly, the "holding time TB" discussed in Murakami deals with application of braking pressure in the context of **vehicle deceleration**, but it has nothing to do with the claimed feature of "holding the first braking-force value for a specified limited first holding time" in order to "**prevent the vehicle from rolling away following a braked standstill**."

Second, given the above explanation that Murakami deals with application of braking pressure in the context of **vehicle deceleration**, and Murakami has nothing to do with prevention of **vehicle roll-away** following **a braked standstill**, it simply does not make any sense that one of ordinary skill in the art would actually contemplate modifying the hill-holder brake system of Zechmann (which deals with a standstill situation) with a dynamic **vehicle deceleration** mechanism taught by Murakami.

Third, to the extent the Examiner contends that "to have tailored the pressure holding times, as desired, dependent upon the grade of the road would have been an obvious engineering choice," the Examiner's assertion is completely baseless. The state of the art, as represented by the applied references, clearly does not suggest anything about setting a first holding time as a function of the gradient angle in a braked standstill situation, and "if the intention of the driver to drive off is detected during the first holding time: cutting short the first holding time, and from the point of cutting short the holding time, maintaining a second braking-force value independently of the driver for a specified extended second holding time." In addition, given the fact that the asserted combination does not make any sense (for the reason that Zechmann deals with a standstill situation and Murakami deals with a dynamic **vehicle deceleration** mechanism), the Examiner's contention is a completely unsupported conclusory statement, which is clearly insufficient to support an obviousness rejection.

For at least the foregoing reasons, claims 12 and 22, as well as pending dependent claims 14, 15, 17-21, are allowable over the combination of Zechmann and Murakami.

CONCLUSION

It is respectfully submitted that all pending claims of the present application are in allowable condition. Prompt reconsideration and allowance of the application are respectfully requested.

Respectfully submitted,

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Dated: March 13, 2008

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